

ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

2020 DEC -7 PM 1:11

DALLAS DIVISION

DEPUTY CLERK

C

BILLY JOHN ROBERSON, PLAINTIFF

2405 ELM HURTST STREET
ROWLETT, TEXAS 75088

3 - 20 CV 3578 - C

CIVIL ACTION NO.

VS

ROWLETT TX POLICE DEPARTMENT, ET AL DEFENDANTS

4401 Rowlett Rd.

Rowlett, TX 75088

MR JOHN CREUZOT-DISTRICT ATTORNEY

133 N RIVER FRONT BLVD LB-19

DALLAS TEXAS 75207

I.

COMPLAINT FOR JUDICIAL REVIEW OF AN WRONGFUL CONVICTION UNDER 5 U.S.CODE SECTION 701-706, 18 U.S. CODE SECTION 3742 AND 28 U.S. CODE SECTION 1291 TO VACATE THE SENTENCE AND JUDGEMENT OF CONVICTION IN THE 292ND DISTRICT COURT CAUSE NO F0345525

TO THE HONORABLE JUDGE JANE J BOYLE AND THE CLERK OF THE UNITED STATES DISTRICT COURT.

COMPLAINT FOR JUDICIAL REVIEW FILED WITH SAID FEDERAL COURT

12/7/2020
DATE

Billy John Roberson
BILLY JOHN ROBERSON PETITIONER

JURSIDICTION

- 1 THIS FEDERAL COURT HAS JURSIDICTION FOR SAID COMPLAINT FOR JUDICAL REVIEW OF AN WRONGFUL CONVICTION PURSUANT TO 5 U.S.C. 701-706, 18 U.S.C. 37 AND 28 U.S.C. 1291
- 2 THE JURISDICTION OF THIS COURT IS INVOKED UNDER 5 U.S.C. 701-706, 18 U.S.C. 3742 AND 28 U.S.C. 1291
- 3 NOW COMES BILLY JOHN ROBERSON, THE PLAINTIFF IN THE ABOVE ENTITLED ACTIONS SEEKING JUDICIAL REVIEW OF AN ADMINISTRATIVE DECISION ON THE WRONGFUL CONVICTIN TO VACATE THE SENTENCE AND JUDGEMENT OF CONVICTION IN THE 292ND DISTRICT COURT CAUSE # F0345525, DALLAS TEXAS ON DATE OF APRIL 27, 2005
- 4 THAT THE COMPLAINT FOR JUDICAIL REVIEW OF A WRONGFUL CONVICTION SHOULD BE GRANTED WITHIN 90 DAYS OF FILED PETITION WITH AN ACTUAL HEARING OF DECISION OF THE COURTS.
- 5 THEREFORE, PLAINTIFF BILLY JOHN ROBERSON REQUESTS THIS HONORABLE COURT GRANT INVESTIGATIONS IN THE MATTER OF LAW. TO VACATE THE SENTENCE AND JUDGEMENT OF CONVICTION.

DATE

12/7/2020

x  _____

BILLY JOHN ROBERSON

HISTORY OF THE CASE

ON APRIL 27, 2005, A JURY CONVICTED DEFENDANT BILLY JOHN ROBERSON OF THE CHARGE AGGRAVATED ASSAULT WITH A DEADLY WEAPON. (A FIREARM), ON CAUSE NUMBER F03-45525V. MR BILLY JOHN ROBERSON DATE SENTENCE WAS DISCHARGED WAS APRIL 23, 2005 AND WAS RELEASED FRON TEXAS DEPARTMENT OF CRINIAL JUSTICE ON APRIL 23, 2011 AND OBTAINED THE FOLLOWING INFORMATION REGARDING BILLY JOHN ROBERSON, B/M, 12-11-1957 DCT 01385227 SID 04205.

ISSUES RAISED IN PETITION

I HAVE RAISED 5 GROUNDS IN SAID PETITION THAT I BILLY JOHN ROBERSON THE DEFENDANT IS CHALLENGING GOVERNMENT ACTIONS FOR RELIEF IN THE SAID FIVE (5) GROUNDS AND SEEK RELIEF OF THE DEFENDANTS ALLEGES.

GROUND 1

THE DEFENDANT IS CHALLENGING THE GOVERNMENT ACTIONS OF THE UNLAWFUL INDICTMENT OF THE GRAND JURY CHARGES FOR AGGRAVATED ASSAULT WITH AN DEADLY WEAPON AGAINST THE DEFENDANT BILLY JOHN ROBERSON IN THE 292ND JUDICAIL DISTRICT COURT IN DALLAS COUNTY TEXAS.

GROUND 2

THAT THE PROSECUTION FAILED THE BURDEN OF PROOF BEYOND A REASONABLE DOUBT. THE PROSECTOR PRESNTED NO PHYSICAL EVIDNECE OF A DEADLY WEAPON OR ANY FIREARMS AGAINST THE DEFENDANT BILLY JOHN ROBERSON TO THE GRAND JURY DELIBERATING THE JURY TO REASCH SAID SUCH VERDICT OR PUNISHMENT.

GROUND 3

THAT THE DEFENDANT IS CHALLENGING THE PROSECTOR FAILED TO PROVIDE PERONDERANCE OF EVIDENCE BEYOND REASONABLE DOUBT. THAT THE PROSECTOR HAD NO PROOF THAT OFFENSE OCCURRED AND THE DEFENDANT BILLY JOHN ROBERSONN ACTUALLY OCCURRED. MR ROBERSON NAITAINS HIS INNONCE AND THAT HE DID NOT COMIT THE OFFENSE AND THEY FAILED TO PRESNT ANY SUCH IN THE COURT OF LAW AT ANY LEVEL THAT CONVINCED ANY JUDGE OR JRUY THAT Mr. Roberson should BE CLEARED OF ALL CHARGES AND THE SENTENCE SHOULD BE LIFTED AND CLEARED WITH RESITUTION TO BE PAID.

SIDE NOTES OF SAID ABOVE 3 GROUNDS. AT NO TIME THROUGHOUT THE INITIAL INVESTIGATION TO THE GRAND JURY INDICTMENT TO ACTUAL TRAIL ITSELF THAT THE STATE

FAILED TO PROVE ITS CASE USING THE TEXAS PENAL CODE SECTION 22.01 OF AGGRAVAED ASSAULT. THEY DID NOT FOLLOW GUIDELINE OR PROCEDURES OF SAID CASE.

AFTER CAREFUL REVIEW AND RESEARCH ON MY PART THEY FAILED TO PROVE MY GUILT AND THUS I SHOULD BE CLEARED BASED UPON THEIR OWN PENAL CODE OF TEXAS SECTION 22.02.

SO THEREFORE, THE ELEMENTS OF AGGRAVATED ASSAULT THE PROSECTION CLAIMED HAS NOT BEEN PROVEN.

GROUND 4

MR BILLY JOHN ROBERSON WHO SERVED OUR COUNTRY IN THE ARMY NATIONAL GUARD AND ATTEMPTED TO TRIED HIS BEST TO RAISE THE ALLEGED VICTIM. HE SHOULD HAVE NOT BEEN SENTENCED TO AN CRIMINAL INSITUTE DUE TO MEDICAL RECORDS THAT STATES HE SUFFERS FROM **Paranoid schizophrenia** and personality disorder. At NO TIME WAS THIS BROUGHT UP IN HIS DEFENSE. AT NOTHING ELSE AN PSYCH EVAL SHOULD HAVE BEEN DONE WHICH WOULD OF PROVED THAT SAID DEFENDANT SHOULD NOT EVEN STOOD TRIAL AND MEDICAL HELP SHOULD HAVE BEEN GOTTEN INSTEAD OF AN GUILTY DECISION. SEE ATTACHED RECORD FROM AN SSI INDEPENDENT DOCTOR THAT ORIGINALLY DIAGNOSIS.

GROUND 5

MR ROBERSON IS A CARING AND LOVING FATHER. AFTER YEARS OF HEART ACHE AND GRIEF THE ALLEGED VICTIM (MR ROBERSONS BIOLOGICAL DAUGHTER) HAS CAME FORWARD AND DID AN WRITTEN STATEMENT THAT MR ROBERSON DID NOT COMMIT SUCH AN HANOUS ACT. SHE CAME FORWARD PER AN NOTORAIZED AFFADAVIT STATEING THAT SHE WAS CONHEARSED AND BRAIN WASHED BY HER MOTHER AND PROSECUTION ALONG WITH CPS. IT CLEARLY STATES THAT THIS WHOLE INCIDENT NEVER HAPPENED.

PER PREVIOUS PETITIONS FILED TO STATE AND NATIONAL COURTS WE HAVE SHOWED PROOF THAT TEXAS HAS A NOTORIOUS MALIOUS PROSECUTION WITHOUT EVIDENT TO SUPPORT ANY ALLEGATIONS AND CHARGES.

TEXAS CPS WAS CAUGHT MAKING FALSIFIED STATEMENT TO ALLEGED VICTIIMS AND TRUMPED UP CHARGES WITH EVIDENT.

IN THIS COURT SYSTEM IT HAS WENT AWAY FROM CHECKS AND BALANCES AND HAS WENT TO HEAR SAY WITHOUT ACTUAL PROOF.

CONCLUSION

THE COMPLAINT FOR JUDICIAL REVIEW AND WRONGFUL CONVICTION SHOULD BE GRANTED.

I, BILLY JOHN ROBERSON, HAVE COMPLIED AND STATES UNDER OATH THAT EVERYTHING IN SAID SUCH PETITION IS TRUE AND CORRECT.

PETITIONER RESPECTFULLY SUBMITTED,

12/7/2020

DATE

Billy John Roberson

SIGNATURE OF PETITIONER

BILLY JOHN ROBERSON

2405 ELM HURST ST

ROWLETT, TEXAS 75088

EXHIBITS THAT ARE ATTACHED

- 1. MEDICAL RECORD OF MR BILLY JOHN ROBERSON**
- 2. AFFADAVIT OF MYSHIRA ROBERSON**
- 3. PREVIOUS ARGUMENTS IN LOWER AND UPPER COURTS**

STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

PHYSICIAN'S CERTIFICATION OF CLAIMANT
TOTAL PERMANENT DISABILITY: MR. BILLY JOHN ROBERSON

In the Interest of
 Social Security Administration
 3231 MLK Jr. Blvd.
 Dallas, Texas 75210

EXHIBIT 1

Claimant/Beneficiary: Mr. Billy John Roberson
 Social Security No.: [REDACTED] 1721
 1035 Burlywood Drive
 Dallas, Texas 75217

PHYSICIAN'S STATEMENT

I, Dr. Stephen Barksdale, have diagnosed Mr. Billy John Roberson, Claimant, and on May 27, 1993 certify him to be totally and permanently disabled due to an impairment as of January 3, 1990. Due to this impairment he cannot return to work. I have prescribed the following medications for his treatment: Stelazine 5 mg T.I.D.
Ac. Doloxepin 50 mg t.i.d. H.S.

I fully understand the statement and it is true, accurate and complete to the best of my knowledge and belief.

I made this statement freely and voluntarily without any menace, rewards, threats or promise of reward having been made to me in return for it.

Stephen Barksdale M.D.

Dr. Stephen Barksdale 6/9/00
 Dr. Stephen Barksdale
 Dallas MHMR
 4645 Samuel Blvd.
 Dallas, Texas 75228

Subscribed and sworn to me this 3rd day of July, 2000 at Dallas
 _____, Texas.

Ronald Williams
 Notary Public

My Commission Expires 9-9-2000

**PSYCHIATRIC REVIEW TECHNIQUE FORM
TO DALLAS MHMR**

Name: Mr. Billy J. Roberson
SSN: [REDACTED] 1721

EXHIBIT 1

Part I

To use this form, first check off below the type or types of psychiatric disorders which are present. Then go to the section or sections in Part II indicated and then to Part III. Part III need only be completed once to indicate the combined effect of all psychiatric disorders present.

- A. _____ Organic Mental Disorders – Complete II.A. and III.
- B. Schizophrenic, Paranoid and other Psychotic Disorders – Complete II.B. and III.
- C. Affective Disorders – Complete II.C. and III.
- D. _____ Mental Retardation and Autism – Complete II.D. and III.
- E. _____ Anxiety-Related Disorders – Complete II.E. and III.
- F. _____ Somatoform Disorders – Complete II.F. and III.
- G. _____ Personality Disorders – Complete II.G. and III.

Part II

	Present	Absent	Insufficient Evidence
A. ORGANIC MENTAL DISORDERS			
1. Disorientation to time and place	_____	✓	_____
2. Memory impairment	✓	_____	_____
3. Perceptual or thinking disturbance	✓	_____	_____
4. Change in personality	✓	_____	_____
5. Disturbance in mood	✓	_____	_____
6. Emotional lability and impairment in impulse control	_____	✓	_____
7. Loss of measured intellectual ability of at least 15 I.Q. points from pre-morbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan, Etc.	_____	_____	✓

Psychiatric Review Technique Form

Billy J. Roberson

Date: 6/9/00

Page: 2

	Present	Absent	Insufficient Evidence
3. Repeated episodes of deterioration of decompensation in situations which cause the individual to withdraw from that situation or to experience exacerbation of signs or symptoms (which may include deterioration of adaptive behavior).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Documented current history of two or more years of inability to function outside of a highly supportive living situation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

C. AFFECTIVE DISORDERS

- | | | | |
|---|--------------------------|-------------------------------------|--------------------------|
| 1. Depressive syndrome characterized by at least four of the following: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| a. <input type="checkbox"/> anhedonia or pervasive loss of interest in almost all activities. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. <input type="checkbox"/> appetite disturbance with change in weight | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. <input checked="" type="checkbox"/> sleep disturbance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. <input type="checkbox"/> psychomotor agitation or retardation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. <input checked="" type="checkbox"/> decreased energy | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f. <input checked="" type="checkbox"/> feelings of guilt or worthlessness | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g. <input checked="" type="checkbox"/> difficulty concentrating or thinking | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| h. <input checked="" type="checkbox"/> thoughts of suicide | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| i. <input checked="" type="checkbox"/> hallucinations, delusions, or paranoid thinking | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Manic syndrome characterized by at least three of the following: | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| a. <input type="checkbox"/> hyperactivity | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Psychiatric Review Technique Form

Billy J. Roberson

Date: 6/9/00

Page: 4

Present	Absent	Insufficient Evidence
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5. Other: _____

_____**E. ANXIETY-RELATED DISORDERS**

1. Generalized persistent anxiety accompanied by three of the following:

a. _____ motor tension

b. _____ autonomic hyperactivity

c. _____ apprehensive expectation

d. _____ vigilance and scanning

2. A persistent irrational fear of a specific object, activity or situation which results in a compelling desire to avoid the dreaded object, activity or situation.

3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror, and sense of impending doom occurring on the average of at least once a week.

4. Recurrent obsessions or compulsions which are a source of marked distress.

5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress.

6. Symptoms resulting in complete inability to function independently outside the area of one's home.

7. Other: _____

_____**F. SOMATOFORM DISORDERS**

Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms, as evidenced by at least one of the following:

1. A history of multiple physical symptoms of several years' duration beginning before age 30 that have caused the individual to take medicine frequently, see a physician often and

Psychiatric Review Technique Form

Billy J. Roberson
 Date: 6/9/00
 Page: 5

	Present	Absent	Insufficient Evidence
alter life patterns significantly.	_____	✓	_____
2. Persistent nonorganic disturbance of one of the following:	_____	✓	_____
a. _____ vision	_____	_____	_____
b. _____ speech	_____	_____	_____
c. _____ hearing	_____	_____	_____
d. _____ use of a limb	_____	_____	_____
e. _____ movement and its control (e.g., coordination disturbances, psychogenic seizures, akinesia, dyskinesia)	_____	_____	_____
f. _____ sensation (e.g., diminished or heightened)	_____	_____	_____
3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury.	_____	✓	_____
4. Other: _____	_____	_____	_____

G. PERSONALITY DISORDERS

Inflexible and maladaptive personality traits which cause either significant impairment in social or occupational functioning or subjective distress.

1. Seclusiveness or autistic thinking	_____	✓	_____
2. Pathologically inappropriate suspiciousness or hostility	_____	✓	_____
3. Oddities of thought, perception, speech and behavior	_____	✓	_____
4. Persistent disturbances of mood or affect	_____	✓	_____
5. Pathological dependence, passivity or aggressivity	_____	✓	_____

Psychiatric Review Technique Form

Billy J. Roberson

Date: 6/9/00

Page: 3

- b. pressure speech
- c. flight of ideas
- d. inflated self-esteem
- e. decreased need for sleep
- f. easy distractability
- g. involvement in activities that have a high probability of painful consequences which are not recognized
- h. hallucinations, delusions, or paranoid thinking

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

4. Other: _____

D. MENTAL RETARDATION AND AUTISM

1. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded.

2. A valid verbal, performance, or full-scale I.Q. of 59 or less.

3. A valid verbal, performance, or full-scale I.Q. of 60 to 69 inclusive, and a physical or other mental impairment imposing additional and significant work-related limitation of function.

4. A valid verbal, performance, or full-scale I.Q. of 60 to 69 inclusive, or in the case of autism, gross deficits of social and communicative skills.

Mental Residual Functional Capacity Assessment

Billy J. Roberson

Date: 6/19/00

Page: 3

18. The ability to be aware of normal hazards and take appropriate precautions. a b c d
19. The ability to travel in unfamiliar places or use public transportation. a b c d
20. The ability to set realistic goals or make plans independently of others. a b c d

II. FUNCTIONAL CAPACITY ASSESSMENT

Record in this section the elaborations on the preceding capacities. Complete this section ONLY after the SUMMARY CONCLUSIONS section has been completed. Explain your summary conclusions in narrative form. Include any information which clarifies limitation or function. Be especially careful to explain conclusions that differ from those of treating medical sources or from the individual's allegations.

Did physician certify Billy J. Roberson totally and permanently disabled as of May 27, 1993?

yes no

Date: 6/19/00

DALLAS MHMR

Physician: Dr. W. B. L.
Address: 11514 Sweeny Blvd.
Dallas, TX 75228

Steffter w. Barkside ms

41910

Psychiatric Review Technique Form

Billy J. Roberson

Date: 6/9/00

Page: 6

	Present	Absent	Insufficient Evidence
6. Intense and unstable interpersonal relationships and impulsive and damaging behavior	—	✓	—
7. Other: _____	—	✓	—

Part III

<u>FUNCTIONAL LIMITATION</u>	None	Slight	Marked	Moderate	Extreme	Insufficient Evidence
A. Restriction of activities of daily living	✓	—	—	—	—	—
B. Difficulties in maintaining social functioning.	—	—	✓	—	—	—
C. Deficiencies of concentration, persistence or pace resulting in failure to complete tasks in a timely manner (in work settings or elsewhere)	—	—	—	—	✓	—
D. Episodes of deterioration or decompensation in work or work-like setting which cause the individual to withdraw from that situation or to exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors)	—	—	—	—	✓	—

Did physician certify Billy J. Roberson totally and permanently disabled as of May 27, 1993?

 yes noDate: 6/9/00

DALLAS MHMR

Physician: John J. Roberson
Address: 4611 Sam. L. Blvd.Min. #
75221

NO. F0345525
TO Judge Bran don Birmingham
IN the 292nd District Court
IN AND FOR Dallas
Building 133 N. RiverFront Bouleva
Dallas, Texas 75207

To Whom it may concern:

My name is Myshira Roberson. I am the daughter of Billy John Roberson.

I would like to clear up some facts regarding the incident regarding him and myself that caused him to serve 6 years time in state facility.

That period of time I was going through a hard time emotionally. I was highly influenced by others and impressionable.

I couldn't no longer sit back quietly and not say my side of the story.

I want to say that at no time that my father ever pulled a gun on me. I felt cohearsed and steered what to say to CPS and during the trial.

My father and I have always had a loving relationship and would never hurt me physically or emotionally.

Feel free to contact me as I feel like he got wrongfully accused and convicted for something that never transpired.

Myshira Roberson

6-29-2020

CERTIFICATE OF ACKNOWLEDGMENT

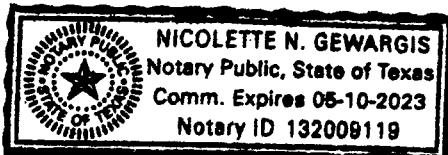
The State of Texas

County of Dallas

Before me, Nicolette Gewargis (insert the name and character of the officer),
on this day personally appeared Mashira Lemons, known to me (or
proved to me on the oath of _____ or through TXDL 27087934
(description of identity card or other document) to be the person whose name is subscribed to
the foregoing instrument and acknowledged to me that he/she executed the same for the purposes
and consideration therein expressed.

(Seal)

Given under my hand and seal of office this 29 day of June, 2020



Nicolette
(Notary's Signature)
Notary Public, State of Texas

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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PITTSBURGH & LAKE ERIE RR VS. RAILROAD ASSN NO 87-1589	
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EXHIBIT 3

STATUTES AND RULES

TEXAS PENAL CODE 22.01 AND 22.02
TEXAS PENAL CODE TITLE 3, CHAPTER 12
2ND AMENDMENT OF THE U.S. CONSTITUTION
CODE OF CRIMINAL PROCEDURE, TITLE 1, CHAPTER 21

OTHER

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

ROWLETTE, TEXAS POLICE DEPARTMENT
4000 Main Street, Rowlett, Texas 75088

WILLIAM BRODNAX-CHIEF OF POLICE
4000 Main Street, Rowlett, Texas 75088

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THIS WHOLE CASE EVOLVES AROUND AND QUESTIONS REASOBAL DOUT AND OTHER FACTORS OF THE FOURTH AMENDMENT AND IT WAS NEVER TAKEN INTO CONSIDERATION OR FACTORED IN BEFORE THE ARREST IN SAID SUCH CASE THAT WAS MADE.

THE MAIN FACTOR UNDER THIS THAT ITS BASED UPON A LOT OF "HERE SAY" AND NEVER PRODUCED IN EVIDENCE AT NO POINT OF THE INVESTIGATION, TRIAL OR INDICTMENT THAT A DEADLY WEAPON WAS PRODUCED.

I, PETITIONER, BILLY J ROBERTSON, UNDER THE TEXAS PENAL CODE SECTION 1.07(11)(A)(B) THAT DEFINES WHAT AN DEADLY WEAPON IS AND MEANS. IT DID NOT SHOW/PRODUCE EVIDENCE OF ANYTHING THAT INCLICITNG AN ITEM TO PRODUCE DEATH OR SERIOUS BODILY INJURY; OR ANYTHING OF THE MANNER OF ITS USE OR THE SUPPOSED INTENDED BODILY INJURY. THE STATES PROSECUTING ATTORNEY PRODUNED OR ENTERED INTO EVIDENCE NO SUCH ITEM.

SINCE THE STATE OF TEXAS REFUSES TO PRODUCE ANY DESCRIPTION AND/OR PICTURES THAT WAS SUPPOSED TO BE PRESENT AT TRIAL DELIBERATION OR THE SENTENCING PHASE. THE PEITIONER OF THIS CASE DID NOT EVEN POSSESS OR HAVE ACCESS TO ANY FIREARM(S) DURING SAID TIMEFRAME OR INCIDENT.

STATEMENT OF THE CASE

TRIAL COUNSEL FAILED TO MAKE A TIMELY OBJECTION OR FILE A PRETRIAL MOTION THUS ALLOWING THE FATALLY FLAWED INDICTMENT OF THE GRAND JURY WHICH SHOULD NOT OF VALIDATE ANY WRONG DOING AND SHOWS DEFICIENT INDICTMENT AND NOT GRANTING THE PETITIONERS 5TH AMENDMENT. PERSONAL THAT NO PERSON SHALL BE HELD TO ANSWER FOR A AGGRAVATED ASSAULT OR OTHER WISE INFAMOUS CRIME.

WHETHER THE COURTS INCORRECTLY DETERMINED THAT THE PETITIONER FAILED TO SHOW INEFFECTIVE ASSISTANCE OF WAS "CONTRARY TO" OR INVOLVED ANY REASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW, WHERE HE CLEARLY MEET(S) THE TWO (2) PRONG STANDARD IN STRICKLAND.

WHETHER THE PETITIONER HAS PRESENT A COLORABLE SHOWING OF ACTUAL INNOCENCE THAT SERVES A GATEWAY THROUGH THE STATUE OF LIMITATIONS THUS, BARING LATE OF THE HABEAS CORPUS PETITION.

SECTION 706 OF THE ADMINISTRATIVE ACT UNDER 5 U.S.C. THAT THE AGENCY DID NOT COMPLY. THEY HAVE TO SHOW NECESSARY THE DECISION THAT IT IS REQUIRES TO REVIEW. ON SUCH CONDITIONS AS MAY BE REQUIRED AND THE EFFECTIVE DATE OF ACTION TAKEN BY IT.

REASONS FOR GRANTING THE PETITION

WE SHOULD BE GRANTED THIS PETITION BASED UPON

1. THAT THE PROSECUTION DID NOT PROVIDE NO PHYSICAL EVIDENCE OF A DEADLY WEAPON TO SUPPORT THE JURY VERDICT ON APRIL 28TH, 2005
2. THE TRIAL TRANSCRIPT UNCOVERS SHOWING THE CONVICTION WAS IN ERROR-WRITTEN TO THE POINT OF UNRELIABILITY, THE IMPEARATIVE OF THAT INJUSTICE WAS DONE AND REQUIRES THE PROSECUTOR TO ADMIT THEY WERE WRONG.
3. ALL PREVIOUS DOCUMENTS AND COURT FILING HAS SHOWED NO PROOF OF THE OFFENSE OF AGGRAVATED ASSAULT WITH DEADLY WEAPON NEVER HAPPENED.
4. ALL PRIOR CASES AND PROOF AT ANY LEVEL THAT SHOULD OF CONVINCED THE JUDGE AND/OR JURY A REASONABLE DOUBT

WE ARE REQUESTING THIS SAID PETITION TO BE GRANTED ALSO BASED UPON 28 U.S.C. SECTION 2350(A)(B) AND 2349(A)(B) THAT SHOULD OF OVERTURN ALL LOWER COURTS DECISIONS AND DENIALS OF APPEAL.

QUESTION(S) PRESENTED

1. How could I receive an Guilty Verdict of aggravated assault with a deadly weapon at the time of this supposed incident, I, Billy John Roberson, did not wn or have access to any firearm.
2. How could the Presiding Judge over the original trial did not step aside when their was an previous conflict.
3. I am questioning the procedures of the Code of Criminal Procedure, Title 1, Chapter 21 was not followed by the guidelines.
4. How could I be charged with a crime when I was not present in the area or around the victim when this supposedly transpired.
5. How could the Lower Courts not render an decision based upon using the Texas Penal Code 22.01 (assault) that key elements was not present during the investigation.
6. How could the Lower Courts not see the under the same code 22.01 of the Texas Penal code 22.02 (aggravated assault) was also not present in any element.
7. How could they render Punishment, under Title 3 Chapter 12 Under the Penal Code when certain Elements was not Present during the Trial.
8. Under the Punishment Phase what gives the rights to Strip my 2nd amendment Rights to bear arms, In the State of Texas, after I was wrongfully convicted and seeking an remedy and have not gotten into any legal trouble since.